

HOUSE BILL 2116
By Johnson R

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 135, to enact the "Tennessee Agricultural Ethanol Production Act of 2005". This act makes appropriations for the period of July 1, 2005 through June 30, 2006 for the purposes of funding incentive payments for the production of ethanol and of funding the administration of the act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 135, is amended by adding Sections 2 through 8 of this act as a new part thereto.

SECTION 2. This part may be cited as the "Tennessee Agricultural Ethanol Production Act of 2005".

SECTION 3. It is hereby the express intent and public purpose of the general assembly to authorize the establishment of cooperative efforts between the state and private enterprise in order to:

(1) Encourage the utilization of corn and other agricultural products for energy purposes and thereby encourage the establishment of a substantial market for agricultural products in this state;

(2) Revive economically depressed areas and create a significant number of new jobs;

(3) Encourage participation of the private sector in the development of a production system for alcohol fuels within the state;

(4) Promote the use of clean, efficient and renewable energy in the state and the United States;

(5) Attract new industry to the state and thereby encourage the investment of capital in the state; and

(6) Reduce the dependence of the state and the United States on imported petroleum through the use of alternate, renewable energy sources.

SECTION 4. As used in this part, the following items shall have the following meaning:

(1) "Applicant" means a person who applies for a permit as an ethanol production participant to receive production incentives under this part;

(2) "Commissioner" means the commissioner of revenue;

(3) "Department" means the department of revenue;

(4) "Ethanol" means ethyl alcohol of a purity of at least ninety-nine percent (99%) denatured in conformity with one (1) of the approved methods set forth by the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms and derived from agricultural products which have been shipped to the ethyl alcohol producer from a grain elevator or similar facility located within the state and which have been fermented and finished to fuel grade in the state;

(5) "Gasohol" means a motor fuel containing a minimum of ten percent (10%) blend of ethanol and ninety percent (90%) unleaded gasoline; and

(6) "Permitee" means an applicant who has been approved by the commissioner of revenue to receive production incentives as an ethanol production participant under this act.

SECTION 5. There is hereby appropriated to the department of revenue for the period of July 1, 2005 through June 30, 2006, from the revenues derived from the state taxes imposed on gasoline and gasohol, as prescribed by title 67, chapter 3, the sum of six million dollars (\$6,000,000) from which the incentive payments authorized by this act shall be paid and there is

further appropriated to the department of revenue for the period of July 1, 2005 through June 30, 2006, a sum sufficient to provide for the administrative costs of this part.

SECTION 6. In order to qualify as a permittee under this part, an applicant must submit proof on a form prescribed by the commissioner that the applicant is a producer of ethanol, as defined by this part, which will be used in the production of gasohol.

SECTION 7.

(a) There shall be paid to each permittee by the department an incentive of thirty cents (\$.30) per gallon for each gallon of ethanol produced and sold for use in the production of gasohol. The permittee may apply for the incentive payments monthly by the twentieth day of each month on forms prescribed by the commissioner based upon the number of gallons of ethanol produced and sold for the production of gasohol during the preceding month.

(b) A permittee shall, at the time of making each sale of ethanol to a gasoline distributor or dealer make out and deliver to the purchaser a prenumbered invoice on which the permittee shall enter the full name and complete address of the purchaser and the number of gallons of ethanol sold. This invoice may be used by a permittee as its proof of sale to obtain the production incentives authorized by this part.

(c) A permittee shall, at the time of having agricultural products shipped to it from a grain elevator or a similar facility located within the state, obtain from the shipper an invoice on which the shipper shall show its full name and address and on which the shipper shall enter the full name and address of the buyer-permittee, the type of agricultural products purchased and the number of bushels of products purchased. This invoice may be used by a permittee as its proof that agricultural products used in the production of ethanol were shipped to the permittee from within the state.

SECTION 8. In enforcing the provisions of this part, the commissioner is authorized to audit the proofs of sale of ethanol and the invoices for the shipment of agricultural products which are maintained by the permittee.

SECTION 9. If any provision of this act or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect July 1, 2005, the public welfare requiring it.